

REMARKS/ARGUMENTS

In the above-mentioned Notice of Non-Compliant Amendment, the Amendment filed on March 3, 2004 in response to the non-final Office Action dated December 3, 2003 was found to be non-compliant as the amendments were not in the proper format, and required that a supplemental reissue oath/declaration be received before this reissue application can be allowed.

In response to the Notice of Non-Compliant Amendment, Applicants resubmit herewith the amendments from the aforesaid Amendment in proper format. In addition, Applicants resubmit the required supplemental reissue declaration executed after the added claims 40 to 44 were originally submitted in the March 3, 2004 Non-Complaint Amendment. If, however, upon allowance of the application and prior to issuance thereof a second supplemental declaration is required it shall be presented.

Accordingly, reconsideration of the application based upon the amendments to the claims resubmitted herewith and the arguments copied from the March 3, 2004 Non-Conforming Amendment and set forth below, is respectfully requested.

Initially, Claims 40-44 are supported by Figures 12-16 and paragraphs 68-77 of this reissue application. No new matter has been added by this amendment. Claims 1-44 are now pending in this application.

Also, Applicants appreciate the Examiner's cooperation in having telephone interviews in February of 2004. The following remarks are in accordance with and summarize the telephone interviews.

II. 35 U.S.C Section 102(e) Rejection Based on U.S. Patent No. 5,497,430:

In the Office Action dated December 3, 2003, claims 1-5, 15-21, and 29-39 have been rejected under 35 U.S.C. Section 102(e) as being anticipated by U.S. Patent No. 5,497,430 (the '430 Patent). With regard to independent claims 1, 15, 17, 29, 38, and 39 of this application, the Office Action states that the '430 Patent discloses an "infringement situation decision means for deciding that a security of the service use area is infringed in case at least one person other than the authorized user is recognized in the input image." The Office Action cites column 5, lines 19-25 and

column 13, lines 6-11 of the '430 Patent for the above proposition. In addition, the Office Action refers to column 5, lines 4-26 of the '430 Patent to state that the '430 Patent discloses "supplying the service to the authorized user and for controlling a supply of the service if use situation decision means decides that the user is not under the situation to sue the service." The Office Action further cites column 5, lines 19-26 and column 13, lines 9-11 of the '430 Patent for the proposition that the '430 Patent specifically discloses monitoring a surrounding area of the user. Applicants respectfully traverse the above rejections for the reasons set forth below.

Applicants submit that the '430 Patent does not anticipate or make obvious an "infringement situation," among others, as recited in claim 1, or as similarity recited in independent claims 15, 16, 17, 29, 38 and 39 of this application. Rather, the '430 Patent only is directed to automatically recognizing and identifying a person's face and determining whether that person should be allowed to proceed through a door, or allowed to operate a particular machinery. The '430 Patent discloses two ways to recognize and identify a person's face: the first way is described in column 5, lines 19-36, and the second way is described in column 5, lines 28-36 of the '430 Patent. The first way is to screen the person's face before that person is allowed to enter through a door. The system then compares the image of the person's face with all of the faces stored in a database to determine if there is a match. If there is no match or if the system decides that the person with the matching face in the database should be barred from the door, then the system does not open or shuts the door. See column 5, lines 23-26.

The second way that the system in accordance with the '430 Patent recognizes and identifies a person's face is to require a person to enter a personal ID number into the system then matching the person's face with the face stored in the database corresponding to the ID number. If there is a match, then the system may allow the person to pass through the door. See column 5, lines 28-36. As such, the '430 Patent is directed to restricting access to a building or denying use of a machine such as an ATM. That is, the '430 Patent is directed to protecting the building from unauthorized personnel rather than any person. As such, the '430 Patent does not anticipate or make obvious an "infringement situation" to determine if security around a use area is

breached because at least one person other than an authorized user is within the use area, as generally claimed in the independent claims of this application.

The '430 Patent is also substantially similar to Matchett et al., U.S. Patent No. 5,229,764, (the '764 patent), which was the only reference relied on in the first Office Action dated January 7, 2003 to reject the original claims of this application under 35 U.S.C. Sections 102(b) and 103(a). Much like the '430 Patent, the '764 Patent is directed to storing biometric data of a prospective user so that when the user later attempts to gain access to the protected system, the system compares the stored biometric data to the user's biometric data to determine if there are similarities to allow access to the protected system. See from column 4, line 55 to column 6, line 8 of the '764 patent. In response to the first Office Action, Applicants filed a response on May 15, 2003, with an argument that the '764 patent does not anticipate or obviate monitoring the area around the user for security purposes by determining if another person (other than the user) is within the use area around user. Based on the above argument, the Examiner withdrew the 102(b) and 103(a) rejections based on the '764 patent in the second Office Action dated June 25, 2003.

Like the '764 Patent, the '430 Patent does not anticipate an "infringement situation" by detecting whether a non-user (another person other than the user) infringes a use area around the user. In contrast, the reissue application is generally directed to providing a security for an authorized user of a security apparatus by monitoring a use area around the authorized user to determine if another person (a non-user) is detected within the use area with the authorized user. Figure 15 of this application, for example, illustrates detecting if a non-user enters a use area around an authorized user to protect the authorized user. In this regard, independent claim 1 of this application recites, in part, an "infringement situation decision means for deciding that a security of the service use area is infringed in case at least one person other than the authorized user is recognized in the input image..." The '430 Patent does not anticipate an "infringement situation" as recited above in claim 1 because the '430 Patent only teaches automatically recognizing and identifying a person's face and determining whether that person should be allowed to proceed through a door, or allow

to operate a particular machinery. As shown in Figure 1 of the '430 Patent, once the determination is made to allow a first person to pass through a protected door, the system in accordance with the '430 Patent goes to a next person in line to determine whether the next person should be allowed to pass through the door rather than monitoring a use area around the first person.

Claim 1 of this application further recites, in part: "service control means for supplying the service to the authorized user and for controlling a supply of the service if said use situation decision means decides that the user is not under the situation to use the service or if said infringement situation decision means decides that the security of the service use area is infringed." The security apparatus controls the supply of a service if the infringement situation decision means decides that the security of the service use area is infringed. This may be in the form of interrupting the service provided to the user if the service use area is infringed by a non-user. The Office Action cites column 5, lines 4-26 for the proposition that the '430 Patent teaches the "service control means" as recited in claim 1. The Office Action further cites column 5, lines 19-26 and column 13, lines 9-11, for the proposition that the '430 Patent teaches monitoring the surrounding area of the user. The passages relied on in the Office Action only disclose two ways to automatically recognize and identify a person's face and determining whether that person should be allowed to proceed through a door, as discussed above. The '430 Patent is directed to a system that protects the building. As illustrated in Figure 1 of the '430 Patent, once a person is allowed to enter through a door, the system goes to the next person to automatically recognizing and identifying the next person's face to determine whether that person should be allowed to pass through the door. The '430 Patent, however, does not disclose monitoring a use area around the user after the system has recognized and identified that the user is allowed to enter through the door. Accordingly, the '430 Patent does not anticipate an "infringement situation" or "service control means" as recited in claim 1 of this application. As such, Applicants respectfully submit that the above rejection of independent claim 1 as being anticipated by the '430 Patent should be withdrawn.

With regard to dependent claims 2-5 and 8-12 of this application, which depend from claim 1, they further define the "service control means" not disclosed in the '430 Patent. For instance, in dependent claim 3 of this application, it recites, in part, that "said control service control means interrupts the supply of the service until the infringement situation is relieved..." The '430 Patent does not disclose interrupting a service being provided to a user because once the system determines that the user should be allowed to pass through the door, the system is done with the user and goes to a next person in line to determine whether the next person should be allowed to pass through the door. Accordingly, dependent claim 3 which depends from claim 1 of this application is allowable over the '430 Patent.

Independent claims 15, 16, 17, 29, 38, and 39 of this application recite an "infringement situation" and/or "service control means" similar to independent claim 1. In particular, each of the independent claims 15, 16, 17, 29, 38, and 39 of this application recite an "infringement situation," as discussed below:

1) Independent method claim 15 recites, in part, "deciding that a security of the service use area is infringed in case at least one person other than the authorized user is recognized in the input image ..."

2) Independent apparatus claim 16 recites, in part, "instruction means for causing a computer to decide that a security of the service use area is infringed in case at least one person other than the authorized user is recognized in the input image."

3) Independent apparatus claim 17 recites, in part, "a recognition unit configured to recognize the user as an authorized user from the input images, and to recognize at least one person other than the authorized user from the input images; and a service control unit configured to supply the service to the authorized user when the user is recognized in the input images, and to control the supply of the service to the authorized user when the person other than the authorized user is recognized in the input images."

4) Independent apparatus claim 29 recites, in part, "an intrusion situation decision unit configured to decide whether a non-user intrudes into the service area in accordance with recognition result of said person recognition unit ..."

5) Independent method claim 38 recites, in part, "controlling the supply of the service to the authorized user when the person other than the authorized user is recognized in the input images."

6) Independent apparatus claim 39 recites, in part, "an instruction unit to control the supply of the service to the authorized user when the person other than the authorized user is recognized in the input images."

Accordingly, the rejection of the independent claims 15, 17, 29, 38, and 39 of this application, as being anticipated by the '430 Patent should be withdrawn because the '430 Patent does not disclose an infringement situation as recited in each of the above independent claims.

III. 35 U.S.C Section 103(a) Rejection Based on U.S. Patent No. 5,497,430:

In the Office Action dated December 3, 2003, claims 6-14 and 22-28 have been rejected under 35 U.S.C. Section 103(a) as being obvious in view of the '430 Patent. In particular, with regard to independent claims 13 and 14 of this application, the Office Action states that the '430 Patent does not specifically disclose sending a "warning" to the user when infringement situation decision means decides that the security of the service is infringed. However, the Examiner states that it would have been obvious to modify the invention of the '430 Patent to include warning signs so that a user can be alerted. Applicants respectfully traverse the above rejections for the reasons set forth below.

Claim 13 of this application recites, in part, "service control means finishes the supply of the service in case the work of the user for the service is completed, interrupts the supply of the service in case the work of the user for the service is not completed, and relieves an interruption of the supply of the service in case said use situation decision means decides the user is under the situation to use the service again." That is, in claim 13, the service to the user is interrupted when the service control means decides that the user is not under a situation to use the service. Such a situation occurs when the infringement situation means detects a non-user intrudes into a use area of the service to protect the user, for example. In contrast, the '430 Patent is directed to a

system that protects the building or machinery rather than the user. As illustrated in Figure 1 of the '430 Patent, once a person is allowed to enter through a door, the system in accordance with the '430 Patent goes to the next person to automatically recognize and identify the next person's face to determine whether that person should be allowed to pass through the door to protect the building, rather than the user. As such, there is nothing in the '430 Patent to teach, suggest, or motive one skilled in the art to modify the teaching of the '430 Patent to interrupt a service to protect a user or to send a warning to the user when a non-user intrudes into a use area around the user. Note that no other references were cited in the Office Action either alone or in combination with the '430 Patent to obviate the independent claim 13. Accordingly, the rejection to claim 13 as being obvious in view of the '430 Patent should be withdrawn.

Claim 14 of this application recites, in part, "wherein said service control means sends a warning to the user when said infringement situation decision means decides the security of the service is infringe." As discussed above in reference to claim 13, the '430 Patent does not to teach, suggest, or motive one skilled in the art to modify the teaching of the '430 Patent to send a warning to the user to protect the user when a non-user intrudes into a use area around the user. Accordingly, the rejection of claim 14 as being obvious in view of the '430 Patent should be withdrawn.

Dependent claims 8, 9, 24, and 25 of this application have been rejected in the Office Action as being obvious in view of the '430 Patent. These dependent claims are generally directed to sending a warning signal to a user when infringement situation decision means decides that the security of the service is infringed. For the reasons stated above in references to independent claims 13 and 14, the rejections to dependent claims 8, 9, 24, and 25 as being obvious in view of the '430 Patent should be withdrawn.

In short, the '430 Patent does not anticipate or obviate an "infringement situation" and/or "service control means" as recited above in each of the independent claims 1, 13, 14, 15, 16, 17, 29, 38, and 39 of this application. Accordingly, the independent claims of this application and their respective dependent claims are in condition for allowance.

IV. New Independent Claims 40-44:

Independent claims 40-44 have been added by this amendment. The new independent claims 40-44 have been added to further clarify that service control means can interrupt or control the service to the user while the user is using the service when infringement situation means decides that a security of a user area is infringed by a non-user. In this regard, independent claim 40 of this application recites, in part, an "infringement situation" and "service control means for supplying the service to the authorized user and for controlling a supply of the service when the infringement situation decision means decides that the security of the service use area is infringed while the use situation decision means has decided that the authorized user is under the situation to use the service." In the '430 Patent, however, once the system determines that a first person should be allowed to pass through a door, the system then checks the second person in line to determine if the second person should be allowed to pass through the door. That is, the '430 Patent does not teach or suggest continuing to monitor a use area of the first person while the user is using the service. Rather, once the determination is made with regard to the first person, the system in accordance with the '430 Patent goes to the second person to determine if the second person should be allowed to pass through the door. As such, claim 40 is allowable over the '430 Patent.

Independent Claims 41-44 of this application recite similar limitations as recited in the independent claim 40 so that claims 41-44 are allowable over the '430 Patent. In addition, the '430 Patent does not teach or suggest interrupting the supply of service and supplying "the service in case the use situation decision means decides the user is under the situation to use the service again," as recited in claim 41 of this application. Moreover, the '430 Patent does not teach or suggest sending "a warning to the user" in case of an infringement situation as recited in claim 42 of this application. Accordingly, newly added independent claims 41-44 are allowable over the '430 Patent.

Conclusion

In view of the foregoing, it is respectfully submitted that the claims in the application patentably distinguish over the cited and applied references and are in

condition for allowance. Reexamination and reconsideration of the application is respectfully requested.

If there are any remaining issues, the Examiner is encouraged to telephone the below-signed counsel for Applicants at (213) 689-6565 to seek to resolve them.

The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 07-1853. Should such additional fees be associated with an extension of time, Applicants respectfully request that this paper be considered a petition therefor:

Respectfully submitted,



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